

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**HUSKY TRANSPORTATION,
INC.,**

Plaintiff

V.

**OCCIDENTAL FIRE AND
CASUALTY COMPANY OF
NORTH CAROLINA,**

Defendant.

[illegible]

CIVIL ACTION NO.: 4:15-cv-02314

PLAINTIFF HUSKY TRANSPORTATION CASUALTY COMPANY'S NOTICE OF SETTLEMENT OF UNDERLYING LAWSUIT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Husky Transportation, Inc. (herein “Husky”), and files this Notice of Settlement of Underlying Lawsuit, and would show the Court the following:

1. This instant case involves an insurance coverage dispute regarding Occidental Fire and Casualty Company of North Carolina’s (“Occidental’s”) duty to defend and indemnify Husky in an underlying tort lawsuit styled as: *Belen Galvan and Cindy Galvan, Individually and as Mother and Next Friend of Ivan Maldonado and Leonardo Maldonado, Minors, v. Husky Transportation, Inc., T&J Deliveries, LLC and Thomas Salyer*, Cause No. 2013-CVT-001455-D1, in the 49th Judicial District Court of Webb County, Texas (“Underlying Lawsuit”).

2. A settlement agreement has been reached in the Underlying Lawsuit (see Exhibit “A”). Also attached is the court’s docket (Exhibit “B”) showing that the Underlying Lawsuit is set for entry of Judgment on July 18, 2017.

3. Based upon the resolution of the Underlying Lawsuit, Occidental's duty to indemnify Husky is now ripe. *See VRV Dev. L.P. v. Mid-Continent Cas. Co.*, 630 F.3d 451, 459 (5th Cir. 2011) ("[A]n insurer's duty to indemnify typically can be resolved only after the conclusion of the underlying action.").

WHEREFORE, Husky files this Notice of Settlement of Underlying Lawsuit and prays that, upon Reconsideration [Dkt. 31 & 33], Judgment be entered that Occidental has a duty to defend and indemnify its insured Husky for the the Underlying Lawsuit, along with any further relief upon which Husky may be entitled.

Dated: July 11, 2017

Respectfully submitted,

By: s/ R. Brent Cooper

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OF COUNSEL:

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**ATTORNEYS FOR PLAINTIFF,
HUSKY TRANSPORTATION, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2017, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, using the electronic filing system of the court. The electronic case files system sent a “Notice of Electronic Filing” to the following individuals who have consented in writing to accept this Notice as service of this document by electronic means:

Jack McKinley
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ATTORNEY FOR DEFENDANT

/s/R. Brent Cooper
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